HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.18175 OF 2007

Between:

M/s. Navya Finance, Jagtial,
Rep., by its partner Basthetti Haribabu,
S/o Venkanna, aged 54 years,
Occ: Business, near Ayyappa Swamy temple,
Karimnagar Road, Jagtial,
Karimnagar District – 505 327

…Petitioner

AND

Andhra Pradesh State Consumer Disputes Redressal
Commission, Khairtabad, Hyderabad – 500 004
and two others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri D. Venkat Reddy

August 30, 2007

Per G.S.SINGHVI, CJ

This is a petition for quashing order dated 18-5-2007 passed by Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short, 'the State Commission') in F.A.I.A No. 1248 of 2007 in F.A.S.R.No.2499 of 2007 whereby the State Commission stayed further proceedings in P.P No. 196 of 2006 in C.D No. 17 of 2006 subject to the condition that the petitioner shall deposit Rs.40,000/- within a period of six weeks and the complainant (respondent No.3) shall be free to withdraw the same without furnishing security.

A perusal of the record shows that respondent No.3 filed a petition under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') with the prayer that the opposite party i.e. the petitioner herein be directed to pay him fixed deposit maturity amount of Rs.80,000/- with interest from the date of maturity i.e., 24-6-2001 till the date of realization with quarterly compound interest as per the banking rates, Rs.3,000/- towards damages and Rs.2,000/- by way of compensation along with costs of Rs.1500/-. The same was registered as C.D.No.17 of 2006. By an order dated 05-7-2006, District Consumer Forum, Karimnagar (for short, 'the District Forum') partly allowed the claim of respondent No.3 and directed the petitioner to pay Rs.80,000/- together with interest at the rate of 9% per annum from the date of maturity i.e., 24-6-2001 till the date of realization and costs of Rs.300/-.

The petitioner did not challenge the order of the District Forum by filing appeal under Section 15 of the Act. However, on receipt of notice of the petition instituted by respondent No.3 under Section 27 of the Act for execution of order dated 5-6-2006 passed by the District Forum, the petitioner filed an appeal. It also filed an application under Section 13 (3-B) of the Act for stay of the proceedings of PP No. 196 of

2006. The same was disposed of by the State Commission on 18-5-2007 in the following terms:

> "Petition u/s.13(3b) of C.P. Act praying that in the circumstances stated in the affidavit filed in support of the petition and memorandum of grounds of appeal, the Hon'ble State Commission may be pleased to stay further proceedings in **PP No.196/2006** i n **C.D.No.17/2006**, on the file of District Forum, Karimnagar pending disposal of the appeal.
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> This petition coming on before us for orders upon perusing the petition and memorandum of grounds of appeal and upon hearing the arguments of **Mr.D. Venkat Reddy**, counsel for the petitioner:
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> **The Court made the following order:**
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> **"**Heard the learned counsel for the appellant. **Interim stay** on condition that the appellant deposits an amount of **Rs.40,000/- i.e. 50%** of the decretal amount within a period of **6 weeks** and the complainant is entitled to withdraw the same without furnishing any security. This amount is in addition to statutory amount already deposited.
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> **Post on 13-9-2007.**"

Shri D. Venkat Reddy, learned counsel for the petitioner relied on the judgment of the Supreme Court in **Haryana Urban Development Authority v. B.K. Sood**[1] and argued that the order passed by the District Forum is nullity and the State Commission committed a serious error by not granting unconditional stay of the proceedings instituted under Section 27 of the Act. Learned counsel submitted that the complaint filed by respondent No.3 was barred by time and the District Forum committed a jurisdictional error by entertaining and disposing of the same on merits. He pointed out that the limitation for filing complaint under Section 12 is two years from the date of accrual of cause of action whereas respondent No.3 filed complaint after four years and argued that this should have been treated as sufficient for non-suiting him. He further argued that the State Commission committed a serious error by imposing the condition of deposit of Rs.40,000/- for staying the proceedings instituted by respondent No.3 under Section 27 of the Act because the petitioner had already deposited 25% of the decreed amount in terms of proviso

to Section 15.

In our opinion, there is no merit in either of the contentions and the writ petition is liable to be dismissed summarily. Since the appeal filed by the petitioner against the proceedings initiated by the District Forum under Section 27 of the Act is pending, we do not want to express any opinion on the merits of the issue raised therein. However, we do not have any hesitation to decline the petitioner's prayer for interference with the interlocutory order passed by the State Commission, which is intended to settle the equities between the parties. If the order passed by the District Forum is to be executed, the petitioner will be required to pay more than Rs.1,60,000/-. Therefore, direction issued by the State Commission for deposit of Rs.40,000/- which represents 50% of the principal amount with liberty to respondent No.3 to withdraw the same cannot be termed as illegal or arbitrary so as to warrant judicial interdiction by the High Court under Article 226 of the Constitution of India.

The argument of Shri Reddy that statutory deposit of Rs.25,000/- should have been treated by the State Commission sufficient for grant of absolute stay is liable to be rejected on the short ground that the deposit of Rs.25,000/- or 50% of the decretal amount constitutes a condition precedent for entertaining the appeal under Section 15 and the same has nothing to do with the exercise of discretion by the State Commission to entertain or not to entertain the prayer for stay made by the petitioner.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP. No.23328 of 2007 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 30, 2007

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[1] (2006) 1 SCC 164